STATE OF MINNESOTA

IN SUPREME COURT

A18-0398

Court of Appeals — Lillehaug, J.
Dissenting, Gildea, C.J., Anderson, J.

Firefighters Union Local 4725, et al.,

Respondents,

vs.

Filed: October 9, 2019
Office of Appellate Courts

City of Brainerd,

Appellant.

Marshall H. Tanick, Teresa J. Ayling, Meyer Njus Tanick, PA, Minneapolis, Minnesota, for respondents.

Pamela L. VanderWiel, William J. Everett, Anna L. Yunker, Everett & VanderWiel, P.L.L.P., Rosemount, Minnesota, for appellant.

M. William O'Brien, Timothy J. Louris, Emily L. Marshall, Miller O'Brien Jensen, P.A., Minneapolis, Minnesota, for amici curiae Amalgamated Transit Union, Local 1005; International Brotherhood of Electrical Workers, Local 160; International Brotherhood of Electrical Workers, Local 949; International Union of Operating Engineers, Local 49; and International Union of Operating Engineers, Local 70.

Cort C. Holten, Jeffrey D. Bores, Chestnut Cambronne PA, Minneapolis, Minnesota, for amicus curiae Minnesota Police and Peace Officers Association Legal Defense Fund.

Susan L. Naughton, Saint Paul, Minnesota, for amicus curiae League of Minnesota Cities.

S Y L L A B U S

1. A public employer's violation of Minn. Stat. § 179A.13, subd. 2(2) (2018), a provision in the Public Employment Labor Relations Act (PELRA) that prohibits the unfair labor practice of interfering with the existence of an employee organization, is not excused because the public employer's interference was a matter of "inherent managerial policy" under another provision in PELRA, Minn. Stat. § 179A.07, subd. 1 (2018).

2. The plain language of Minn. Stat. § 179A.13, subd. 2(2), which prohibits the unfair labor practice of interfering with the existence of an employee organization, does not require that the public employer's interference be motivated by antiunion animus.

Affirmed.

O P I N I O N

LILLEHAUG, Justice.

This appeal concerns a labor dispute under the Public Employment Labor Relations Act (PELRA), Minn. Stat. §§ 179A.01–.25 (2018). Firefighters Union Local 4725 (the Local) and union president Mark Turner sued the City after it restructured its fire department and eliminated all of the union positions. The district court granted summary judgment to the City. The court of appeals reversed, concluding that the City committed an unfair labor practice under Minn. Stat. § 179A.13, subd. 2(2), which prohibits public employers from "interfering with the . . . existence . . . of any employee organization," and remanded to the district court. The City sought further review, acknowledging that the decision to restructure the fire department interfered with the existence of the Local, but contending that the decision was an authorized exercise of the City's "inherent managerial

policy" under a different section of PELRA, Minn. Stat. § 179A.07, subd. 1. We affirm the court of appeals' decision, but with reasoning that differs in part.

FACTS

The Local is an affiliate of the International Association of Fire Fighters and represents five firefighters who were employed by the City on a full-time basis. The five firefighters were the entire membership of the Local at the time of the City's decision to restructure the fire department in 2015.

In 2010, the City experienced a budget deficit following a decrease in both property tax values and state aid. The City attempted to restructure its fire department by eliminating the full-time fire equipment operator (FEO) positions and have the FEO duties performed by paid on-call (POC) firefighters, who receive nominal compensation and limited benefits. All of the FEO employees, but none of the POC firefighters, were members of the Local. The Brainerd City Council passed a resolution to adopt this plan, but later rescinded it due to public opposition.

In January 2015, the City and the Local negotiated and signed a new three-year collective bargaining agreement that covered the union FEO employees, but not the nonunion POC firefighters. Six months later, the City informed the Local in writing that the City again sought to restructure the fire department to save money. The restructuring would eliminate the FEO positions as a cost-saving measure. The Local vigorously opposed the City's proposal to lay off all of the Local's members.

In September 2015, the City Council passed a resolution to restructure the fire department by eliminating the FEO positions, using POC firefighters to perform the work

previously performed by the FEO employees, and creating a full-time assistant fire chief position. The effect of the restructuring was that the union FEO employees lost their jobs and their duties were performed by nonunion firefighters.

In January 2016, the Local filed a complaint in the district court alleging four counts. Count I—the only claim at issue in this appeal—alleged that the City, in eliminating the FEO positions, laying off the FEO employees, and promoting a POC firefighter to the new assistant-chief position (rather than rehiring an FEO employee), had engaged in unfair labor practices prohibited by PELRA.[1] In Count I, the Local claimed that the City had engaged in three types of prohibited unfair labor practices:

> (1) interfering, restraining, or coercing employees in the exercise of the rights guaranteed in sections 179A.01 to 179A.25;
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> (2) dominating or interfering with the formation, existence, or administration of any employee organization or contributing other support to it; [and]
>
> (3) discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization[.]

Minn. Stat. § 179A.13, subd. 2(1)–(3).

The City moved for summary judgment on all counts. It is important for the analysis that follows to understand the legal position that the City took. The City acknowledged—

[1] Count II alleged that the City improperly amended the Brainerd City Charter, and Counts III and IV alleged that the City retaliated against Local members for making statements critical of City personnel and the City's proposed restructuring of the fire department, in violation of the First Amendment of the United States Constitution and Article I, Section 3, of the Minnesota Constitution. Counts II, III, and IV are not at issue in this appeal.

indeed, asserted affirmatively—that its actions had eliminated the Local.[2] In its statement of undisputed facts in support of summary judgment, the City represented that, "[a]s a result of the restructuring, the FEOs were laid off and the [Local] was dissolved." The City further asserted that the Local's claim concerning the City's promotion of a nonunion POC firefighter to the new assistant-chief position was meritless because PELRA did not apply after the Local members "were no longer public employees and Firefighters Union Local 4725 no longer existed." The City reemphasized this assertion in its reply memorandum, stating that its decision to promote "cannot be construed as an act meant 'to encourage or discourage membership in an employee organization,' especially one that no longer exists."

The City's representation that its actions had eliminated the Local was supported by testimony from two City officials. During the fire chief's deposition, he was asked whether "there would be a union left without any members" employed by the City. He responded, "No." The fire chief also stated that it was "correct" to say that "the restructuring . . . eliminate[d] the union" and, as a result, "the union would no longer exist." Similarly, the City administrator stated during his deposition that it is "a fair presumption" and "logical" to say that "the union would be eliminated" if "their positions were eliminated" by the City.

The Local cross-moved for partial summary judgment. Relevant to this appeal, on Count I, the Local argued, among other things, that the City's actions had violated section

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[2] The City has not disputed that the Local is an "employee organization" under PELRA. An employee organization is "any union or organization of public employees whose purpose is, in whole or in part, to deal with public employers concerning grievances and terms and conditions of employment." Minn. Stat. § 179A.03, subd. 6. PELRA prohibits both public employers and employee organizations from engaging in certain unfair labor practices. *See* Minn. Stat. § 179A.13, subds. 2–3.

179A.13, subdivision 2(2), of PELRA by "interfering with the . . . existence or administration" of the Local.

In response, the City argued that, even though the Local had been eliminated, the City's actions were lawful under—indeed, authorized by—another provision in PELRA, Minn. Stat. § 179A.07, subd. 1, which deals with "matters of inherent managerial policy." Such matters include "the organizational structure, selection of personnel, and direction and the number of personnel." *Id*. The City argued that decisions by a public employer on these matters, such as those that prompted this lawsuit, may well interfere with the existence of employee organizations like the Local, but are nonetheless allowed by PELRA. Therefore, urged the City, a decision on a matter of inherent managerial policy is not an unfair labor practice.

The district court granted summary judgment in favor of the City on Counts II, III, and IV, which are not before us. On Count I, the district court granted summary judgment in part, determining that the City's actions were within its authority under Minn. Stat. § 179A.07, subd. 1. The district court also denied summary judgment in part, concluding that fact issues existed as to whether the City had violated PELRA by failing to negotiate the terms and conditions of employment, which are subjects of mandatory negotiation under another provision of PELRA, Minn. Stat. § 179A.03, subd. 19.

The City moved for reconsideration of the partial denial of summary judgment on Count I, arguing that the Local had not properly raised the issue of mandatory negotiation under section 179A.03, subdivision 19. The district court granted the City's motion for reconsideration and ordered complete summary judgment in favor of the City.

The Local appealed, and the court of appeals affirmed on Counts II, III, and IV, but reversed on Count I. *Firefighters Union Local 4725 v. City of Brainerd*, 920 N.W.2d 232, 245 (Minn. App. 2018). On Count I, the court of appeals reached only the issue of whether the City had violated section 179A.13, subdivision 2(2). Considering the "plain language" of the statute, the court of appeals held that the "City violated Minn. Stat. § 179A.13, subd. 2(2), when, during the midst of an operating bargaining agreement, it unilaterally eliminated all FEO positions, effectively dissolving [the Local]." 920 N.W.2d at 239. The court of appeals concluded that it is not a matter of inherent managerial policy for a public employer "to reorganize a department when the reorganization interferes with the existence and administration of a union." *Id*. at 240. Therefore, the court of appeals remanded to the district court "to fashion an appropriate remedy." *Id.*

The City petitioned for review, presenting a single issue: "Does a departmental reorganization that results in the dissolution of a bargaining unit constitute a statutorily authorized exercise of a public employer's inherent managerial authority . . . or is it an unfair labor practice, as the Court of Appeals determined below?" The Local requested conditional cross-review on issues related to Counts II, III, and IV. We granted the City's petition but denied the Local's request for conditional cross-review.

ANALYSIS

This case concerns the relationship between two provisions in PELRA: an unfair labor practices provision, Minn. Stat. § 179A.13, subd. 2(2), and the inherent managerial policy provision, Minn. Stat. § 179A.07, subd. 1. Both provisions have been part of

PELRA since it was enacted in 1971.[3] Statutory interpretation is an issue of law that we review de novo. *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013).

This appeal arises from cross-motions for summary judgment on Count I. We review the district court's grant of summary judgment de novo. *Commerce Bank v. W. Bend Mut. Ins. Co.*, 870 N.W.2d 770, 777 (Minn. 2015). Summary judgment is appropriate when "there is no genuine issue of material fact and a party is entitled to judgment as a matter of law." Minn. R. Civ. P. 56.01; *see Senogles v. Carlson*, 902 N.W.2d 38, 42 (Minn. 2017). Here, we see no genuine issue of material fact—and the parties have identified none—that would prevent us from interpreting and applying the statutes.

I.

PELRA designates certain "practices" of public employers that are "specified" in section 179A.13 as "unfair labor practices." Minn. Stat. § 179A.13, subd. 1. We turn first to the unfair labor practices provision at issue in this case, section 179A.13, subdivision 2(2). The relevant statutory language provides that "[p]ublic employers, their agents and representatives are prohibited from . . . interfering with the formation, existence, or administration of any employee organization[.]" Minn. Stat. § 179A.13, subd. 2(2).[4]

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[3] *See* Act of Nov. 3, 1971, ch. 33, §§ 6, 8, 1971 Minn. Laws Extra Sess. 2709, 2716, 2719–20.

[4] The National Labor Relations Act makes it an "unfair labor practice for an employer . . . to dominate or interfere with the formation or administration of any labor organization," but, unlike PELRA, does not reference interference with an organization's "existence." *See* 29 U.S.C. § 158(a)(2) (2012).

We have never interpreted section 179A.13, subdivision 2(2), and, as it happens, this case does not require a comprehensive discussion of the reach and nuance of the words "interfering," "formation," "existence," and "administration." Throughout the case, the City's legal position has been that its actions interfered with the existence of the Local. In the district court, the City represented that its actions resulted in the dissolution of the Local. On appeal, as the court of appeals observed, the City "acknowledged" that the "fire-department restructuring resulted in the elimination of the entire union." *Firefighters Union Local 4725*, 920 N.W.2d at 240. And before us, the City agreed that it "did interfere with the existence of" the Local, albeit for a "vital" reason.[5]

Instead, the City asks us to interpret PELRA as prohibiting under the unfair labor practices provision, section 179A.13, subdivision 2(2), only those acts that are not permitted under the inherent managerial policy provision, section 179A.07, subdivision 1. In other words, the City posits that PELRA excuses what would otherwise be an unfair labor practice when the City takes an action that falls within the public employer's inherent managerial authority. We turn now to that issue.

Under Minn. Stat. § 179A.07, subd. 1, "A public employer is not required to meet and negotiate on matters of inherent managerial policy." The statute further provides that "[m]atters of inherent managerial policy include, but are not limited to, such areas of discretion or policy as the functions and programs of the employer, its overall budget,

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[5] At oral argument, the following exchange occurred: "So is it fair to summarize the City's position as follows: the City did interfere with the existence of the Union but did so for a good reason?" Counsel: "It did so for vital reasons, yes." Court: "So you would agree with that statement?" Counsel: "It's difficult not to. I mean, of course . . . ."

utilization of technology, the organizational structure, selection of personnel, and direction and the number of personnel." *Id.*

The City argues that the decision to restructure the fire department falls squarely within the authority granted by section 179A.07, subdivision 1. The City asserts that the decision affected the City's budget and involved changing the fire department's organizational structure and number of personnel. According to the City, such personnel decisions designed to address budgetary issues are clearly determinations on inherent managerial policy. *See, e.g.*, *Arrowhead Pub. Serv. Union v. City of Duluth*, 336 N.W.2d 68, 71 (Minn. 1983) (stating that a city's decision regarding "the number of personnel it employs to conduct its operations" is a matter of policy); *Minneapolis Ass'n of Adm'rs & Consultants v. Minneapolis Special Sch. Dist. No. 1*, 311 N.W.2d 474, 476 (Minn. 1981) (stating that a school district's "decision to decrease administrative staff as a means of dealing with declining enrollment and a reduced budget" constitutes "a decision regarding matters of inherent managerial policy").

The court of appeals rejected the City's position that the decision to restructure the fire department was a decision on a matter of inherent managerial policy. The court of appeals held that "it is not an 'inherent managerial policy' for an employer to reorganize a department when the reorganization interferes with the existence and administration of a union." *Firefighters Union Local 4725*, 920 N.W.2d at 240. The Local makes a similar argument.

We disagree with the court of appeals and the Local; under the plain language of section 179A.07, subdivision 1, the City's decision clearly implicated matters of inherent

managerial policy. Section 179A.07, subdivision 1, gives specific examples of what falls within this category, including decisions about budget, organizational structure, and number of personnel. The Local recognized this when it entered into the collective bargaining agreement; in that document, the City expressly retained its "full and unrestricted right" to determine the fire department's manpower, set its budgets, modify its organizational structure, and "perform any inherent managerial function not specifically limited" by the agreement.

According to the City, the fact that the restructuring of the fire department was a decision on a matter of inherent managerial policy ends the matter. But it does not. The plain language of section 179A.07, subdivision 1, specifically limits the extent of the legal protection that such a decision enjoys. It provides only that a public employer "is not required to meet and negotiate on matters of" inherent managerial policy. In other words, this provision addresses the scope of "mandatory bargaining" under PELRA. *See City of W. Saint Paul v. Law Enf't Labor Servs., Inc.*, 481 N.W.2d 31, 34 (Minn. 1992). The provision does not address, much less diminish, the force of the PELRA provisions that explicitly "prohibit[]" a public employer from engaging in certain actions, designated as "unfair labor practices." Minn. Stat. § 179A.13, subds. 1(a), 2. This plain-language reading of the PELRA provisions harmonizes them. *See Erickson v. Sunset Mem'l Park Ass'n*, 108 N.W.2d 434, 441 (Minn. 1961) (stating that where "reasonably possible" we interpret a statute to avoid conflict with other statutes). Therefore, we reject the City's argument that a public employer has inherent managerial authority to commit an unfair labor practice.

Thus, on the decision to restructure the fire department, the City may not have been legally required to meet and negotiate with the Local.[6] But section 179A.07, subdivision 1, does not otherwise provide legal immunity from a charge of an unfair labor practice under section 179A.13, subdivision 2(2). For us to recognize such immunity, we would have to read an exception into subdivision 2(2). But we cannot add language to a statute; rather, we "must apply the plain language of the statute as written[.]" *State v. Noggle*, 881 N.W.2d 545, 550-51 (Minn. 2016); *see also Rohmiller v. Hart*, 811 N.W.2d 585, 590 (Minn. 2012) ("We cannot add words or meaning to a statute that were intentionally or inadvertently omitted."). That black-letter rule of statutory interpretation has special force here, because the Legislature demonstrated elsewhere in PELRA that it knows how to subordinate union rights to the provision governing matters of inherent managerial policy.[7] But the Legislature did not do so when it prohibited unfair labor practices.

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[6] We say "may not" because sometimes the effects of a decision on a matter of inherent managerial policy may implicate the "terms and conditions of employment" and be subject to mandatory bargaining. So, for example, we held in *Gen. Drivers Union Local 346 v. Indep. Sch. Dist. No. 704*, 283 N.W.2d 524 (Minn. 1979), that it was an unfair labor practice for the school district to refuse to negotiate with the union its decision to contract out bus driving services. *Id.* at 527–28. In *General Drivers*, "[w]e rejected the argument that contracting out was an inherent managerial decision not subject to collective bargaining, and held that because it resulted in job termination the subject was a term and condition of employment." *Foley Educ. Ass'n v. Ind. Sch. Dist. No. 51*, 353 N.W.2d 917, 923 (Minn. 1984). Whether the City's restructuring triggered mandatory bargaining is not before us.

[7] The Legislature has specified that "terms and conditions of employment," which generally are subject to mandatory bargaining, are "subject to section 179A.07." Minn. Stat. § 179A.03, subd. 19; *see* Minn. Stat. § 179A.07, subd. 2 (addressing a public employer's obligation to meet and negotiate). Consequently, we have held that "[n]egotiable terms and conditions of employment are limited to exclude matters of

The City also relies on policy reasons to support its position. According to the City, accepting the Local's argument that restructuring the fire department was "prohibited" by section 179A.13, subdivision 2(2), would lead to an "untenable" and "unworkable" result. Amicus curiae League of Minnesota Cities similarly argues that the result reached by the court of appeals is "bad public policy" because it "will prevent public employers from having the flexibility they need to respond to changes and to adjust their organizational structures to protect public interests."[8] The amicus labor organizations disagree.

Whatever the merits of these competing arguments, when the language of a statute is clear and unambiguous, we do not consider public policy. *E.g.*, *Axelberg v. Comm'r of Pub. Safety*, 848 N.W.2d 206, 213 (Minn. 2014) (stating that when a statute "needs revision in order to make it embody a more sound public policy, the Legislature, not the Judiciary, must be the reviser"); *Buskey v. Am. Legion Post #270*, 910 N.W.2d 9, 14 (Minn. 2018) ("When the words of a law in their application to an existing situation are clear and free from all ambiguity, then our role is to enforce the language of the statute and not explore the spirit or purpose of the law." (citations omitted) (internal quotation marks omitted)). In this case, the City has conceded—using the very words of section 179A.13, subdivision 2(2)—that it interfered with the existence of an employee organization. This interference is a "prohibited" unfair labor practice. Minn. Stat. § 179A.13, subds. 1, 2(2). Section

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inherent managerial policy." *Hill-Murray Fed'n of Teachers v. Hill-Murray High Sch.*, 487 N.W.2d 857, 866 (Minn. 1992).

[8] The dissent, too, is based on what is essentially a policy argument: that cities should not be "chilled" from making decisions on matters of inherent managerial policy.

179A.07, subdivision 1, does not immunize that otherwise unlawful interference. If the language of section 179A.13, subdivision 2(2), does not embody sound public policy, it is up to the Legislature to revise it.

II.

We next analyze the City's argument that a public employer's decision on a matter of inherent managerial policy that interferes with the existence of an employee organization is an unfair labor practice only if the decision was based on an unlawful motive, such as antiunion animus. The City suggests that whether municipal decisions are motivated by antiunion animus could be analyzed through a *McDonnell Douglas*-style burden-shifting test used in employment cases. *See, e.g.*, *Hansen v. Robert Half Int'l Inc.*, 813 N.W.2d 906, 918–20 (Minn. 2012) (explaining the burden-shifting framework for employment discrimination claims set forth in *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973)). We decline to read a motive element into section 179A.13, subdivision 2(2), for three related reasons.

First, we cannot read a motive element into the statute because the Legislature did not write one. The plain and ordinary meaning of "interfere" is "to interpose in a way that hinders or impedes." *Merriam-Webster's Collegiate Dictionary* 609 (10th ed. 2001). The definition does not include intent or motive elements. And, again, we cannot add words to a statute. "To do so would violate a basic rule of interpretation, as we do not add words or phrases to unambiguous statutes or rules." *Walsh v. U.S. Bank*, 851 N.W.2d 598, 604 (Minn. 2014).

The dissent would read a new element into the statute by narrowing the word "interfere" to mean "intentionally interfere." But, as the very definition cited by the dissent makes clear, the word "interfere" encompasses both intentional and unintentional conduct. *See Garner's Dictionary of Legal Usage* 471, 570 (3d ed. 2011). Moreover, the dissent's proposed amendment to the ordinary definition of "interfere" does not even do the job it undertakes; here, there is no question that the City's conduct was intentional, whatever its motive.

Second, the unfair labor practices provisions of PELRA show that, when the Legislature wants to require a motive element, it knows how to do so—and, in fact, did so in succeeding paragraphs. Section 179A.13, subdivision 2(3), prohibits "discriminating in regard to hire or tenure to encourage or discourage membership in an employee organization." Subdivision 2(4) prohibits "discriminating . . . because the employee has" engaged in protected activity. And subdivision 2(5) prohibits "refusing to meet and negotiate in good faith."[9] We cannot consider subdivision 2(2) to include an element that so plainly appears in other parts of the statute.

Third, even if we had the basis to add a motive element to section 179A.13, subdivision 2(2), the City has not proposed a precise standard, and it is not clear which one

[9] The two Supreme Court cases cited by the City regarding antiunion animus dealt with different types of unfair labor practices—claimed violations of statutory provisions that prohibit interference with the rights of union members and prohibit discrimination that discourages membership in a union. *Metro. Edison Co. v. NLRB*, 460 U.S. 693, 700 (1983); *Am. Ship Bldg. Co. v. NLRB*, 380 U.S. 300, 311 (1965). *Cf.* Minn. Stat. § 179A.13, subd. 2(1), (3).

we should adopt. How strong must the anti-union animus be? What about mixed-motive cases? Should we add "with the intent to," "with the primary purpose of," "based on," "based in substantial part on," or "based in part on"? And then, after settling on a standard, we would have to decide whether the burden should shift and, if so, when and how. We conclude that, even if it would be good policy to add a new motive element to a 48-year-old law, the drafting task—again—would be for the Legislature.[10]

Our plain reading of PELRA does not, as the dissent charges, favor one section of the statute over another. Quite the contrary; we read the sections in harmony—not in conflict—with one another. We decline to do what the dissent would do: judicially amend the plain language of one section to favor another.

Although our reasoning differs in part from that of the court of appeals, we hold that the City engaged in an unfair labor practice prohibited by Minn. Stat. § 179A.13, subd. 2(2). Therefore, we affirm the court of appeals' decision that the district court erred by failing to grant summary judgment to the Local on the PELRA claim.

CONCLUSION

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.

[10] The dissent would insert an anti-union animus element into subdivision 2(2), but declines to tell us how that element would be phrased and whether and how burdens would shift. Instead, the dissent would punt these basic questions of law to the district court.

D I S S E N T

GILDEA, Chief Justice (dissenting).

This case involves two provisions in Minnesota's Public Employment Relations Act (PELRA): Minn. Stat. § 179A.07 (2018) (listing inherent managerial policy matters and exempting such matters from meet and confer requirements), and Minn. Stat. § 179A.13, subd. 2(2) (2018) (defining as an unfair labor practice actions that interfere with the existence of a union). The majority effectively concludes that the City cannot exercise the inherent managerial authority given in section 179A.05 because to do so constitutes an unfair labor practice under section 179A.13. In other words, the majority prioritizes the protections in section 179A.13 and nullifies the powers in section 179A.07. Because the majority departs from our obligation to give effect to both statutes, I respectfully dissent.

This case comes to us after the City decided to make changes to its workforce. The City determined to eliminate all of its full-time firefighters, and use part-time firefighters. The City contends that this was an inherent managerial policy decision and therefore not subject to negotiation with the union. The City is undoubtedly correct, for section 179A.07 specifies that "[m]atters of inherent managerial policy include . . . selection of personnel, and direction and the number of personnel." And the City says that it made this managerial decision for budgetary reasons.

For their part, respondents argue that the City's implementation of its decision is an unfair labor practice in violation of section 179A.13, subdivision 2(2). Under this provision, the City is prohibited from "interfering with the . . . existence . . . of [a union]."

Minn. Stat. § 179A.13, subd. 2(2). Respondents contend that the City's decision eliminated the union because the terminated firefighters were the only members of the union.

The district court resolved the competing claims in favor of the City, effectively concluding that section 179A.07 trumped section 179A.13. In essence, the district court held that because the City's decision was an inherent managerial policy decision, it could not be an unfair labor practice.

The court of appeals reached the opposite conclusion, holding that because the City's decision eliminated the union it could not be an inherent management decision. *Firefighters Union Local 4725 v. City of Brainerd*, 920 N.W.2d 232, 240 (Minn. App. 2018). The court of appeals effectively concluded that section 179A.13 trumped section 179A.07.

The majority reaches the same result as the court of appeals. Although recognizing our obligation to give effect to both statutes, the majority attempts to sidestep the problem. Specifically, the majority concludes that the two statutes do not actually conflict because section 179A.07 and section 179A.13, subdivision 2(2), address different things. I disagree.

Under section 179A.07, the City does not have to bargain with a union over the City's decision to eliminate personnel. The majority acknowledges as much. But, even though the City can make the decision to eliminate personnel without bargaining, the majority concludes that the City cannot implement that decision due to section 179A.13, subdivision 2(2). The majority's conclusion that the City cannot implement its decision because it is an unfair labor practice nullifies the City's inherent management discretion.

In other words, the City can make the decision to eliminate personnel without bargaining, but the City cannot implement the decision in the circumstances here because to do so would be an unfair labor practice. Under the majority's reasoning, the two statutes therefore conflict, at least as they operate in the circumstances of this case.

At bottom, the majority has done what the court of appeals did—it chooses section 179A.13, subdivision 2(2), over section 179A.07. Our obligation, however, is to give effect to both provisions. *See* Minn. Stat. § 645.16 (2018) ("Every law shall be construed, if possible, to give effect to all of its provisions."); Minn. Stat. § 645.17(2) (2018) ("[T]he legislature intends the entire statute to be effective and certain[.]").

There is a way to resolve the conflict that gives effect to both provisions, and that is the path I would follow. Under section 179A.13, subdivision 2(2), employers "are prohibited from . . . interfering with the . . . existence . . . of any employee organization . . . ." Minn. Stat. § 179A.13, subd. 2(2). The statute does not define the term "interfering," but the term could be defined either as one of strict liability or one requiring intentional conduct. For example, *Garner's Dictionary of Legal Usage* 471, 570 (3d ed. 2011) provides: "To interfere is to hamper, frustrate, or meddle in a deleterious way. One interferes with someone or something . . . by meddling either intentionally or unintentionally." And "intentional" means "[d]one with the aim of carrying out the act." *Intentional*, *Black's Law Dictionary* (10th ed. 2014). Consistent with these definitions, interfering with the existence of the union is proven if the conduct that interferes was done "with the aim of" interfering. *Id.* Because our task is to give effect to both

section 179A.13, subdivision 2(2), and section 179A.07, I would interpret "interfering" in section 197A.13, subdivision 2(2), in accord with these definitions.[1]

Such an interpretation is consistent with how we interpreted a different part of PELRA in the past. *See Minn. Ed. Ass'n v. Indep. Sch. Dist. No. 495*, 290 N.W.2d 627, 631 (Minn. 1980). The question in that case was whether the school district committed an unfair labor practice because the district refused to arbitrate the union's claim. *Id.* at 629. There was no question that the school district had refused to arbitrate. *Id.* at 628. The union, relying on the provision in PELRA that made it an unfair labor practice to refuse to comply with compulsory binding arbitration agreements,[2] argued that the school district's " 'good faith' or lack thereof" was not relevant to the question of whether an unfair labor practice had been committed. *Id*. at 631. Essentially, the union argued that the reason the school district refused to arbitrate was irrelevant; all that mattered was the school district's refusal to arbitrate. *Id.*

We rejected the union's absolutist interpretation. We said that to conclude that the school district's refusal was automatically an unfair labor practice "would 'chill' rights

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[1] I acknowledge that the statute does not separately list an intent element. But because the statute does not define "interfere," we can look to dictionary definitions. *E.g.*, *State v. Strobel*, 932 N.W.2d 303, 308 (Minn. 2019). As shown above, "interfere" is defined to include intentional conduct.

[2] PELRA has been amended since the case was decided but the relevant statutory language is unchanged. *Compare* Minn. Stat. § 179.68, subd. 2(6) (1982) (prohibiting public employers from "refusing to comply with grievance procedures," including binding arbitration of grievances), *with* Minn. Stat. § 179A.13, subd. 2(b) (2018) (making it an unfair labor practice to "refus[e] to comply with grievance procedures," including binding arbitration of grievances).

granted under the Uniform Arbitration Act." *Id*. To preserve the rights given in the arbitration statute, we adopted a "fair interpretation" of refusal in PELRA. *Id.* We held that, because the arbitrability of the claim was "reasonably in doubt," the school district had not committed an unfair labor practice. *Id*.

I would follow the same analysis here. Interpreting inference without regard to the City's motives would chill the City's rights under section 179A.07. To avoid that result, I would interpret "interfering" in section 179A.13, subdivision 2(2), as acting with the intention to interfere with the union. This interpretation gives effect to the protections in section 179A.13, subdivision 2(2), and to the powers in section 179A.07.

Throughout this litigation, the City has maintained that it did not make the decision at issue here from an anti-union animus. And the City has argued, as an alternative to its assertion that inherent management decisions cannot be unfair labor practices, that decisions made from anti-union animus could be unfair labor practices. The district court, however, did not decide this issue. The district court effectively held that because the City's decision was an inherent managerial policy under section 179A.07, it was not an unfair labor practice under section 179A.13, subdivision 2(2). Just as I disagree with the majority's (and court of appeals') decision to prioritize section 179A.13, subdivision 2(2), over section 179A.07, so too do I disagree with the district court's decision to prioritize section 179A.07 over section 179A.13, subdivision 2(2). We must give effect to both.

In my view, the way to resolve this conflict and give effect to both statutes is to interpret section 179A.13, subdivision 2(2), to require that the unfair labor practice be motivated by anti-union animus. With this interpretation, if a City uses its inherent

management authority as a disguise for anti-union animus, the decision would be an unfair labor practice. As applied here, the City argues that it made the decision for budgetary reasons, but if the facts demonstrate that the decision was made because the City intended to interfere with the existence of the union, the City would have committed an unfair labor practice. Because the district court did not reach this issue, I would remand the unfair-labor-practice claim (Count I of the complaint) to the district court for a determination on whether the City's decision was made with the intent to interfere with the union.[3]

ANDERSON, Justice (dissenting).

I join in the dissent of Chief Justice Gildea.

[3] The majority is unclear about what standard should apply to an intent requirement or how the level of animus is to be measured. These questions were not decided below or adequately briefed here. In my view, the parties should litigate these questions in the first instance in the district court on remand. *See In re Tr. Known as Great N. Iron Ore Props.*, 243 N.W.2d 302, 308 (Minn. 1976) ("We better fulfill our function as a reviewing court when we review issues after they have been decided below, rather than deciding them ourselves in the first instance.").